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## Costs Decisions

Site visit made on 29 July 2022

**by Ryan Cowley MPlan (Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 24<sup>th</sup> August 2022**

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### **Costs application in relation to Appeal A) Ref: APP/R2520/W/21/3292618 70 Sleaford Road, Ruskington, Sleaford NG34 9BS**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mrs Alice Fury for a full award of costs against North Kesteven District Council.
  - The appeal was against the refusal of planning permission for '2 No. bungalows with attached garages (with new garage for No70) and associated works'.
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### **Costs application in relation to Appeal B) Ref: APP/R2520/W/22/3297092 70 Sleaford Road, Ruskington, Sleaford NG34 9BS**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mrs Alice Fury for a full award of costs against North Kesteven District Council.
  - The appeal was against the refusal of planning permission for 'Erection of dwelling, associated works and parking for no. 70 Sleaford Road'.
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## **Decision**

1. The applications for award of costs in relation to Appeals A and B are refused.

## **Reasons**

2. The Planning Practice Guidance (the PPG) advises that costs may be awarded against a party who has behaved unreasonably where the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. Examples of unreasonable behaviour by local planning authorities include failure to produce evidence to substantiate a reason for refusal, making vague, general or inaccurate assertions about a proposal's impact which are unsupported by any objective analysis, and not determining similar cases in a consistent manner.
4. The appellant considers that the Council's reasoning is incorrect and irrational, that they have demonstrated a lack of knowledge of the surrounding area, and this has resulted in excessive costs incurred by the appellant. The appellant also alleges that the Council has been inconsistent in their approach to determining similar cases and has penalised them due to their background.
5. The reasons for refusal are set out clearly and comprehensively in both of the Council's decision notices, and further justification is provided in the supporting Officer Reports and subsequent appeal statements.

6. With respect to Appeal A, it will be seen from my decision that I agree with the Council's judgement and consider that there were sufficient grounds for refusing planning permission based on the effect of the proposed development on the character and appearance of the area, and the living conditions of future occupiers. The scheme is contrary to the development plan, and there are no material considerations that would justify a departure. It follows that I am satisfied that the Council can substantiate those reasons for refusal.
7. With respect to Appeal B, it will be seen from my decision that I disagree with the Council's reason for refusal. However, the Council's characterisation of the area is not flawed or inconsistent with my own. I agree that this type of 'backland' form of development is not a defining characteristic of the area. I also acknowledge it differs from the established pattern of development on this side of Sleaford Road. The decisions diverge in the assessment of the extent to which the proposal would harm the prevailing character and appearance of the area. This is a matter of planning judgement, and the Council's reasoning is supported by an objective analysis with reference to the provisions of national and local planning policy and guidance, as well as other local examples.
8. I have had regard to other examples of similar 'backland' development referred to by the appellant, which it is alleged demonstrates inconsistency in the approach to decision making. These examples, while similar, feature notable differences to the appeal site and proposals. Ultimately, each application must be considered on its own merits, and there is no compelling evidence before me to demonstrate the Council has been inconsistent in its approach.
9. With respect to allegations that the Council has penalised the appellant due to their background, there is no evidence before me to substantiate this claim. Reference does not appear to be made to the background of the appellant in the applications, and so there is no indication the Council were aware of this. Even if the Council were aware of the appellant's background, they have clearly set out objective reasoning for their decisions. I therefore find both decisions of the Council to be consistent with Article 14 of the European Convention on Human Rights (ECHR) and the Public Sector Equality Duty (PSED)<sup>1</sup>.
10. The Council is correct that for a legally binding determination as to the lawfulness of the park home units currently on site, the appellant would need to apply for a Lawful Development Certificate. However, I have given no weight to the arguments concerning these units. Whether they constitute lawful development therefore has no bearing on the outcome of the appeals.
11. I therefore cannot agree that the Council has acted unreasonably in respect of these matters. As such there can be no question that the appellant was put to unnecessary or wasted expense as a result.

## **Conclusion**

12. I therefore conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Ryan Cowley*

INSPECTOR

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<sup>1</sup> Section 149 of the Equality Act 2010